

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
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Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

September 8, 2020

The Honorable Sarah Netburn
United States Magistrate Judge
Thurgood Marshall Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

Pursuant to this Court's Individual Practices in Civil Cases III.e., Plaintiffs file this Letter-Motion for oral argument of Plaintiffs' January 14, 2020 Second Motion to Compel the production of documents from the Federal Bureau of Investigation (FBI), as well as the FBI's April 13, 2020 Motion for a Protective Order, ECF No. 6136. Briefing of the subject motions was completed on September 4, 2020.

Plaintiffs believe that oral argument of the pending motions would be of assistance to the Court, as well as the parties, because the motions raise unprecedented issues of national importance about the government's assertion of the State Secrets privilege as to events that occurred twenty years ago, the FBI's failure to search for documents responsive to the 9/11 Plaintiffs' subpoena, and the FBI's 9/11 investigation generally, and because the record is substantial and complex. Allowing counsel for the parties to present argument and answer the Court's questions will shed light on the issues, allow the parties and the public to gain an understanding of the judicial process, and help promote the prompt resolution of the motions. In addition, Plaintiffs want an opportunity to address the September 4, 2020 FBI's reply papers, which raise several new issues that can be more quickly and easily addressed through oral argument rather than additional pleadings.

Also, oral argument is important because the FBI documents at issue are directly relevant to the upcoming depositions of Saudi government personnel and their subagents. Plaintiffs want to obtain the relevant FBI documents before those depositions go forward. Oral argument will

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assist the Court and the parties to coordinate the FBI's production with the depositions. The document discovery has already shown that the FBI production is critical to a proper understanding of the facts. On repeated occasions throughout this litigation, the FBI production has identified documents that Saudi Arabia failed to produce.

Plaintiffs also believe that the relevant issues could be fully and properly addressed in an open hearing before the Court without any risk to protected information. The parties have demonstrated their ability to successfully maintain the security of FBI and MDL protected information in the series of oral arguments previously held before this Court, including the public videoconference hearing held in May 2020.

Plaintiffs previously filed a July 11, 2019 Letter-Motion, ECF No. 4677, for oral argument of Plaintiffs' May 31, 2019 Initial Motion to Compel the production of documents from the FBI. Plaintiffs' Initial Motion involved the application of the state secrets privilege to portions of the 2012 FBI Summary Report. The current motions address the entirety of the FBI's production, and necessarily involve many different moving parts that are best addressed at oral argument. The Initial Motion to Compel could also be set for oral argument at the same time as Plaintiffs' Second Motion to Compel, and the FBI's Motion for a Protective Order.

Respectfully submitted,

KREINDLER & KREINDLER

/s/ Steven R Pounian, Esquire

Steven R. Pounian, Esquire
Andrew J. Maloney, Esquire
750 Third Avenue, 32nd Floor
New York, NY 10017

MDL 1570 Plaintiffs' Exec. Committee
for Personal Injury and Death Claims

MOTLEY RICE

/s/ Robert T. Haefele, Esquire

Robert T. Haefele, Esquire
28 Bridgeside Boulevard
Mt. Pleasant, SC 29464

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for Personal Injury and Death Claims

COZEN O'CONNOR

/s/ Sean P. Carter, Esquire

Sean P. Carter, Esquire
1650 Market Street, Suite 2800
Philadelphia, PA 19103

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